

**TOWN OF LOS GATOS
CALIFORNIA
TOWN COUNCIL/PARKING AUTHORITY
JOINT REDEVELOPMENT AGENCY
August 1, 2005/MINUTES
Los Gatos Civic Center
110 E. Main Street
Los Gatos, CA 95030**

TIME	ITEM	ACTION ON ITEM
7:00 PM	TOWN COUNCIL	The Town Council/Parking Authority/Redevelopment Agency of the Town of Los Gatos met in the Council Chambers of the Town of Hall, 110 East Main Street, at 7:00 PM, August 1, 2005, in a joint regular session.
7:01 PM	ROLL CALL	Present: Steve Glickman, Diane McNutt, Joe Pirzynski, Barbara Spector, and Mayor/Chairman Mike Wasserman Absent: None
7:02 PM	PLEDGE OF ALLEGIANCE	The audience was invited to participate in the Pledge of Allegiance.
7:03 PM	CLOSED SESSION	<p>CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code Section 54956.8)</p> <p>Property: Town of Los Gatos Wastewater System Assets</p> <p>Negotiating Parties: Town of Los Gatos (Negotiator: Orry Korb, Town Attorney) West Valley Sanitation District (Negotiator: Robert Reid, General Manager)</p> <p>Under Negotiation: Price and terms of payment.</p> <p>PUBLIC EMPLOYEE PERFORMANCE EVALUTAION (Government Code Section 54957) Title: Town Attorney</p> <p>Mr. Korb stated that no action was taken.</p>

7:03 PM	COMMENDATIONS	<p>Commendation</p> <p>Mayor Wasserman presented commendations to:</p> <ul style="list-style-type: none">• Niosha Dance Academy (American Cancer Society Relay for Life)• North Santa Cruz Avenue Street Repaving Project<ol style="list-style-type: none">1. Duran and Venables, Incorporated (Contractor)2. Project Team3. Peter Martyn, Cat-Struction Walk Kids Challenge Winner <p>Mayor Wasserman thanked Duran and Venables and staff who were involved in the five day completion of the repaving of N. Santa Cruz Avenue. He also presented a certificate and “Cat-struction Mascot” to Peter Martyn for winning the Cat-struction Walk Kids Challenge.</p>
7:12 PM	<p>CONSENT ITEMS #1-6</p> <p>ITEM #5 PULLED</p>	<p><u>TOWN COUNCIL</u></p> <ol style="list-style-type: none">1. Accept Schedule of Public Hearings. (1-28)2. Accept report on Town Manager approved actions during Council recess. (2-12)3. Adopt resolution modifying a Conditional Use Permit for a restaurant (Sushi E!) to allow the service of beer and wine with meals on property zoned C-1. Conditional Use Permit U-05-014 APN: 407-33-021 Location: 1458 Pollard Road Property owner: Rinconada Hill Investment Company Applicant: Yoon Nyoun Kim. RESOLUTION 2005-082 (3-15)4. Adopt resolution authorizing Town Manager to execute agreement between the Town of Los Gatos and the City of Monte Sereno for the 2005 Joint Street Resurfacing Project. RESOLUTION 2005-083 (4-24) <p><u>TOWN COUNCIL/REDEVELOPMENT</u></p> <ol style="list-style-type: none">6. <u>Project 04-13 – Santa Cruz Avenue Resurfacing</u> (6-24) Adopt resolution accepting work of Duran and Venables, Incorporated and authorizing the Town Manager/Executive Director to execute Certificate of Acceptance and Notice of Completion for recording by the Clerk Administrator/Secretary of the Redevelopment Agency. RESOLUTION 2005-084 2005-12RD

	CONSENT ITEMS #1-6 Continued	Motion by Mrs. McNutt to approve Consent Items #1-4 and #6. Seconded by Mr. Pirzynski.
7:14 PM	MAYOR CALLED THE QUESTION	Carried unanimously.
7:15 PM	CONSENT ITEMS #1-6 Continued PULLED ITEM #5	PULLED ITEM # 5 Mr. Davis <ul style="list-style-type: none"> • Commented that he felt that action only minutes do not provide enough information to the reader. • Submitted minutes from the City of Campbell. Motion by Mrs. McNutt to approve Consent Item #5. Seconded by Mr. Pirzynski.
7:18 PM	MAYOR CALLED THE QUESTION	Carried unanimously.
7:19 PM	VERBAL COMMUNICATION	Jay Tuttle <ul style="list-style-type: none"> • Presented commendation and United States flag which flew over the Capital to Chief Scott Seaman for his outstanding support to the Los Gatos-Monte Sereno Police Pipe and Drums Team for their participation at the Washington D.C Police week memorial Services. Tab Morales <ul style="list-style-type: none"> • Commented on requesting Town Council to support a moratorium on the death penalty. Jane Hills <ul style="list-style-type: none"> • Commented on requesting Town Council to support a moratorium on the death penalty. Ruth Silver Taubbe <ul style="list-style-type: none"> • Commented on requesting Town Council to support a moratorium on the death penalty. Terry McCaffrey <ul style="list-style-type: none"> • Commented on requesting Town Council to support a moratorium on the death penalty. Rosemary Everett <ul style="list-style-type: none"> • Commented on requesting Town Council to support a moratorium on the death penalty.

	VERBAL COMMUNICATION Continued	<p>Renate Frick</p> <ul style="list-style-type: none"> Commented on requesting Town Council to support a moratorium on the death penalty. <p>June Gwartney</p> <ul style="list-style-type: none"> Commented on the meeting held by the Parks Commission and Pacific, Gas and Electric regarding the Pinehurst Avenue proposal to build a community garden. Commented that trees would have to be taken down and that the neighbors opposed the idea of a community garden. Would like to know where the issue stands and how the neighborhood can get involved to clean-up the area. <p>Mr. Davis</p> <ul style="list-style-type: none"> Commented on a memorandum from the Town Manager relating to possible reduction and term limits for the Planning Commission. <p>Marian Cosgrove</p> <ul style="list-style-type: none"> Commented on notification of certification of records and the Elected Clerk position. <p>Mayor Wasserman asked for Council interest in agendizing the moratorium issue. Interest was expressed by Mr. Glickman and Mrs. McNutt to place the issue on a future Council Agenda.</p>
7:44 PM	CLOSE VERBAL COMMUNICATION	
	MAYOR CALLED FOR A RECESS	Meeting resumed at 7:48 PM.
7:48 PM	<p>PUBLIC HEARINGS</p> <p>ITEM # 7</p> <p>ABATEMENT OF HAZARDOUS VEGETATION (BRUSH)</p>	<p><u>TOWN COUNCIL</u> <u>ITEM # 7</u> (7-33) <u>Abatement of Hazardous Vegetation (Brush).</u></p> <ol style="list-style-type: none"> Conduct public hearing to consider the report of the County Agricultural Commissioner's Office (available in the Clerk Department) on the abatement of hazardous vegetation (brush) for the 2004-2005 season. Take no further action. <p>Staff report made by John Curtis.</p>
7:49 PM	COUNCIL COMMENT	None at this time.

7:50 PM	ITEM #7 Continued OPEN PUBLIC HEARING	Mr. Davis <ul style="list-style-type: none"> • Commented on the 150 foot clearance around homes for added prevention of fire. • Commented that the Town of Los Gatos has done nothing to regulate the 150 foot clearance for fire protection.
7:53 PM	CLOSE PUBLIC HEARING	
7:54 PM	COUNCIL DISCUSSION	<ul style="list-style-type: none"> • Commented that 100% percent of the residents have complied with the abatement.
7:55 PM	ITEM # 8 ABATEMENT OF HAZARDOUS VEGETATION (WEEDS)	<p><u>ITEM # 8</u> (8-33)</p> <p><u>Abatement of Hazardous Vegetation (Weeds)</u></p> <ol style="list-style-type: none"> Conduct public hearing to consider the report of the County Agricultural Commissioner's Office (available in the Clerk Department) on the abatement of hazardous vegetation (brush) for the 2004-2005 season. Adopt resolution approving said report (available in the Clerk Department). RESOLUTION 2005-085 <p>Staff report made by John Curtis.</p>
7:56 PM	COUNCIL COMMENT	None at this time.
7:57 PM	OPEN PUBLIC HEARING	None at this time.
7:57 PM	CLOSE PUBLIC HEARING	
7:58 PM	COUNCIL DISCUSSION	Motion by Mrs. Spector to approve report and adopt the resolution. Seconded by Mr. Pirzynski.
7:59 PM	MAYOR CALLED THE QUESTION	Carried Unanimously.

8:00 PM	PUBLIC HEARINGS Continued ITEM # 9 16942 MITCHELL AVENUE	<u>ITEM # 9</u> (9-15) Consider an appeal of the decision of the Planning Commission to approve a request to construct a second story addition to a single family residence on property zoned RM: 5-12. APN: 529-18-014. Property location: 16942 Mitchell Avenue. Property owner/applicant/appellant: Doug Braga. Staff report made by Bud Lortz .
8:01 PM	COUNCIL COMMENT	<ul style="list-style-type: none"> • Questioned clarification of square footage of homes in the neighborhood. • Clarification from the applicant regarding the three conditions requested by the Planning Commission. • Questioned mitigation relating to the addition of privacy for the window. • Clarification on the current bedrooms in the home and proposed use of the additional area. • Questioned applicant about providing 360 exterior materials for the proposed plan.
8:05 PM	OPEN PUBLIC HEARING APPLICANT/ APPELLANT/ OWNER	Mr. and Mrs. Braga <ul style="list-style-type: none"> • Commented on the FAR of homes in the neighborhood. • Commented on being the third largest home on the street. • Would like to have additional space for growing family. • Commented that their proposed project is within all requirements for FAR, height, and compatible with the neighborhood. • Commented that they are willing to work with staff on the 360 degree exterior siding. • Commented on the landscaping to shield the window. Chrystal Wendt, Architect <ul style="list-style-type: none"> • Commented on using 50% of the footprint on the second floor.
8:15 PM		Chris Shelley <ul style="list-style-type: none"> • Commented on the mixed siding and different elevations. • Commented on the diverse mass and scale for the proposed home. • Clarification on what is a neighborhood. • Commented on the project meeting all the written requirements.

**PUBLIC HEARING
Continued**

ITEM #9

**16942 MITCHELL
AVENUE**

Thomas Engelmann

- Stated that the neighbors to the rear should have the right to privacy.
- Would like to see the design approved as proposed by the Planning Commission.

David Breidenthal

- Commented on the condition of the garage, and would like to see it upgraded to Town standards.
- Supports the Planning Commission decision.

Robert Beatty

- Supports the proposed project.

Linda Caplinger

- Commented on the FAR of the homes in the neighborhood.
- Questioned what the Town considers a neighborhood.
- Questioned the discrepancy of square footage records from the County.
- Commented that privacy should not be an issue given the lot line distance separating the neighbors.

Ms. Yamamoto

- Supports the proposed plans for the home.

Ms. Toombes

- Supports the proposed plans for the home.

Ms. Beers

- Supports the proposed plans for the home.

Mr. Peterson

- Supports the proposed plans for the home.

Mr. Schaub

- Supports the proposed plans for the home.

Mr. Davis

- Commented on “due process” relating to the Planning Commission’s decision.
- Commented that there are no Planning Commissioners at the meeting to comment on their decision.

	PUBLIC HEARING Continued ITEM #9 16942 MITCHELL AVENUE	Mayor Wasserman <ul style="list-style-type: none"> Commented that all Council Members have the verbatim minutes from the Planning Commission meeting, and therefore the Planning Commission's views are well represented.
8:40 PM	PUBLIC HEARING Continued ITEM #9 APPLICANT/ APPELLANT/ OWNER	Chrystal Wendt <ul style="list-style-type: none"> Commented on the amount of neighbors in favor of the project. Commented that the proposed plans for the home may not have the largest square footage in the neighborhood. Mr. Braga <ul style="list-style-type: none"> Stated that the project falls within all the Town's design guidelines. Stated that the project would include bringing the attached garage into compliance with the Town code. Would like to see clarification on the definition of a neighborhood.
8:45 PM	CLOSE PUBLIC HEARING	
8:45 PM	COUNCIL DISCUSSION	<ul style="list-style-type: none"> Commented on the minutes from the Planning Commission meeting, and for clarification on any new information presented at tonight's meeting. Commented on the FAR of the duplex in the neighborhood. Questioned the applicant's willingness to complying with the 360 degree exterior. Clarification regarding the status of the garage. Questioned if improvement to the roof of the garage would be an option. Clarification on the Planning Commission's conditions for approval. <ul style="list-style-type: none"> Size, bulk, mass and height of proposed addition, maximum 2,528 square feet. Consistency of exterior materials, 360 degree architecture. Reconfigure second story window. Commented on solutions regarding the privacy of the window. Questioned if the applicant would be willing to work with staff on the proposed plans. Commented on design elements rather than a tree screen as privacy for the window.

	PUBLIC HEARING ITEM #9 Continued COUNCIL DISCUSSION	<ul style="list-style-type: none"> • Commented on reducing the square footage. • Commented that new information relating to the square footage had come forward. • Suggested eliminating a cantilever to reduce mass and scale. <p>Motion by Mr. Glickman to uphold the Planning Commission decision with changes to include 360 degree exterior wrap, the use of trees as screening, look at mass and scale, but not to degree that Planning Commission has suggested; and, possible reduction of FAR.</p> <p>Seconded by Mrs. McNutt.</p> <ul style="list-style-type: none"> • Questioned solution for mass and scale reduction. • Applicant is willing to work with staff, would like to keep the square footage. • Suggested possible reduction of square footage by 10%. • Discussed whether or not enough new information has been presented to Council to remand to Planning Commission. • Discussed whether or not the square footage of the duplex in the neighborhood should be considered in compatibility analysis.
9:22 PM	MAYOR CALLED THE QUESTION	4/1 Mr. Glickman voting yes.
9:23 PM	COUNCIL DISCUSSION	<p>Motion by Mr. Pirzynski to modify the Planning Commission decision and to remand the project back to the Planning Commission with recommendations to include the duplex and it's FAR at 16203 George Avenue as part of the neighborhood. Require 360 degree siding materials, and address the privacy issue.</p> <p>Seconded by Mr. Wasserman.</p>
9:25 PM	COUNCIL DISCUSSION	<ul style="list-style-type: none"> • Discussed resolving the matter at Council level. • Commented on following the appeal process. • Clarification on the Planning Commission appeal process. • Commented on 16203 George St relating to square footage not FAR.
9:31 PM	MAYOR CALLED THE QUESTION	4/1 Mr. Pirzynski voting yes.

9:32 PM	PUBLIC HEARING ITEM #9 Continued COUNCIL DISCUSSION	<p>Motion by Mr. Wasserman to grant the appeal of the Planning Commission on the grounds that this is not the largest home in the neighborhood, and there is no written policy for Planning Commission to determine what constitutes a neighborhood. Conditions to include:</p> <ul style="list-style-type: none"> • Exterior finishing materials 360 degrees around home. • Square footage as proposed at 2,954 square feet. • The height and setbacks being under the Town's guidelines. • Work with Director of Community Development to mitigate any privacy issues. • Directors report to be presented to Planning Commission as information. <p>Added conditions to reduce left and right mass and scale to satisfaction of Community Development Director:</p> <ol style="list-style-type: none"> 1. Step back the side of second floor, and or, 2. Adding architectural techniques to reduce mass and scale, and or, 3. 10% floor area reduction. <p>Seconded by Mr. Glickman.</p>
9:50 PM	MAYOR CALLED THE QUESTION	3/2 Mr. Pirzynski and Mrs. Spector voting no.
9:51 PM	MAYOR CALLED FOR A RECESS	Meeting resumed at 9:57 PM.
	PUBLIC HEARINGS Continued ITEM #10 42 AND 44 ELM STREET	<p><u>ITEM #10</u></p> <p>Consider a request to modify a Conditional Use Permit to expand an existing restaurant, add additional seats and for an alternating use of parking on property zoned C-2. APN: 529-03-035, Property location: 42 and 44 Elm Street. Property owner: Michael T. Cobler. Applicant: Nicholas Difu.</p> <p>Staff report made by Bud Lortz.</p>
10:02 PM	COUNCIL COMMENT	<ul style="list-style-type: none"> • Questioned lease of the children's salon. • Questioned phantom parking spaces. • Clarification on the amount of "quality dining" restaurants in the downtown area. • Commented on the loss of ground floor retail space.

10:09 PM	OPEN PUBLIC HEARING ITEM #10 Continued APPLICANT 42 AND 44 ELM STREET	Nicholas Difu <ul style="list-style-type: none"> • Commented that more seating would be needed to achieve the restaurant style. • Commented on maintaining a “small town” restaurant. • Commented on his ideas for a quality restaurant.
10:15 PM	PUBLIC HEARING ITEM #10 Continued	Ms. O’Gorman <ul style="list-style-type: none"> • Commented on the ambiance of Café Rouge. • Does not support the expansion of the restaurant. Gini Bellawala <ul style="list-style-type: none"> • Commented on not supporting the expansion of the restaurant. • Commented on the “small town and small business” friendliness. • Would like to see the salon remain next to Café Rouge. Jeff Wark <ul style="list-style-type: none"> • Does not support the expansion of the restaurant. • Would like to see Café Rouge remain as it is today. Farhad <ul style="list-style-type: none"> • Stated that he has nothing to do with the application. • Does not support the expansion of the restaurant. Dan Shaw <ul style="list-style-type: none"> • Commented on supporting the expansion of the restaurant. Mr. Arzie <ul style="list-style-type: none"> • Commented on the use of the Central Business District & Town policy.
	PUBLIC HEARING Continued APPLICANT	Nicholas Difu <ul style="list-style-type: none"> • Thanked Council for taking the time to hear this item. • Questioned if the Elm Street location would be a possible location for a larger type restaurant in the future.
	CLOSE PUBLIC HEARING	

	<p>ITEM #10 Continued</p> <p>COUNCIL DISCUSSION</p>	<ul style="list-style-type: none"> • Commented on preserving the space for potential retail establishments. • Commented on the quality of Mr. Difu's work. • Stated that the Town has limited retail space and retail spaces need to be protected. • Questioned if the salon portion of the building is a viable retail space. • Clarification on findings for a conditional use permit for this location and the objectives of the General Plan. <p>Motion by Mrs. McNutt to deny the application for a request to expand an existing restaurant at 42-44 Elm Street, and preserve that space for potential retail space in the future and encourage the applicant to look for another location elsewhere in Los Gatos.</p> <p>Seconded by Mr. Pirzynski.</p>
	MAYOR CALLED THE QUESTION	4/1 Mr. Glickman voting no.
		Mrs. Spector recused from Item #11 regarding 50 University Avenue due to the fact that she resides within 500 feet of the establishment.
10:37 PM	<p>OTHER BUSINESS</p> <p>ITEM #11</p> <p>50 UNIVERSITY AVENUE, SUITE 180</p> <p>THE WINE CELLAR</p>	<p>ITEM #11 (11-37)</p> <p>Consider a request to modify a Conditional Use Permit for a restaurant to legalize the increase in the number of seats, to modify the type of allowed entertainment and to increase the days when entertainment is available on property zoned C-2:PD:LHP. Conditional Use Permit: U-03-7 APN: 529-02-044 Location: 50 University Avenue, Suite 180 Property Owner: Federal Reality Applicant Steve Hauck (Wine Cellar).</p> <p>(continued from 6/20/05)</p> <p>Staff report made by Bud Lortz.</p>
10:44 PM	COUNCIL COMMENTS	<ul style="list-style-type: none"> • Commented on compliance with the Alcohol Policy. • Clarification on the restriction on number of private parties and allowing amplified music for private parties only. • Clarification on hours of operation which the applicant requested verses the Town's Alcohol Policy. • Clarification on use of amplified music.

10:49 PM	<p>ITEM #11 Continued</p> <p>OPEN PUBLIC COMMENT</p> <p>50 UNIVERSITY AVENUE SUITE 180</p> <p>THE WINE CELLAR</p>	<p>Mr. Arzie</p> <ul style="list-style-type: none">• Commented on saturating the Central Business District with high use operations. <p>Ms. Warner</p> <ul style="list-style-type: none">• Commented on Town policy relating to alcoholic beverages and the standards for entertainment. Questioned if standards have been adopted. <p>Mrs. Decker</p> <ul style="list-style-type: none">• Commented on the process problem and definition of the Alcohol Beverage Policy.• Commented on the requirements for the entertainment portion of the Alcohol Beverage Policy. <p>Mr. Voss</p> <ul style="list-style-type: none">• Questioned the parking problems associated with late night establishments.• Does not support the request for modification of the Wine Cellar. <p>Mr. Spector</p> <ul style="list-style-type: none">• Commented on the Alcohol Beverage Policy and how it relates to the Wine Cellar.• Questioned if adopting any of the options tonight would require reconsidering the Alcohol Beverage Policy, which would require a full public hearing. <p>Mrs. Spector</p> <ul style="list-style-type: none">• Spoke as a resident and neighbor regarding the Alcohol Beverage Policy pertaining to entertainment.• Commented on Council adopting standards which would address issues such as live entertainment and night clubs or choosing not to adopt standards to deter late night establishments in Town.• Commented regarding the noise from customers leaving late night establishments.• Commented against adhoc exceptions which fail to give direction to owners and neighbors. <p>Mrs. Spector left the Council Chambers.</p>
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11:04 PM	<p>ITEM #11 Continued</p> <p>PUBLIC COMMENT</p> <p>50 UNIVERSITY AVENUE SUITE 180</p> <p>THE WINE CELLAR</p>	<p>Ms. Morgan</p> <ul style="list-style-type: none"> • Commented on the impacts of favoring one application relating to the Alcohol Beverage Policy. • Would like to see standards established within the Alcohol Beverage Policy for all business to follow regarding live entertainment. <p>Mr. Slutman</p> <ul style="list-style-type: none"> • Commented on the Alcohol Beverage Policy. <p>Ms. Stewart</p> <ul style="list-style-type: none"> • Commented regarding impacts on the neighborhood pertaining to the night clubs. <p>Mr. Davis</p> <ul style="list-style-type: none"> • Commented on the crowds leaving the late night establishments.
	CLOSE PUBLIC COMMENT	
11:15 PM	COUNCIL DISCUSSION	<p>Motion by Mr. Pirzynski to accept conditions of approval as stated in Alternative #5, on pages 1 and 2, of the August 1, 2005 staff report granting approval to modify a Conditional Use Permit located at 50 University Avenue.</p> <p>Seconded by Mr. Wasserman.</p> <ul style="list-style-type: none"> • Commented on having an Alcohol Beverage standards Policy. • Commented on the potential for a night club situation.
11:22 PM	MAYOR CALLED THE QUESTION	3/1/1 Mr. Glickman voting no. Mrs. Spector recused.
11:23 PM	<p>ITEM #11 Continued</p> <p>50 UNIVERSITY AVENUE SUITE 180</p> <p>THE WINE CELLAR</p>	<p>Steve Hauck , Wine Cellar,</p> <ul style="list-style-type: none"> • Approached the podium to ask the Mayor when he could speak to this issue. <p>Mr. Wasserman granted Mr. Hauck 2 minutes to speak.</p> <p>Mr. Korb, Town Attorney, clarified for the record, that it was stated that the public hearing was closed, and it was clarified that there was no special speaking opportunities for the applicants. Council asked for any persons who wished to speak to the application during the item.</p>

	ITEM #11 Continued 50 UNIVERSITY AVENUE SUITE 180	Steve Hauck, Applicant, Wine Cellar <ul style="list-style-type: none"> • Commented on live music at the establishment. • Commented on the establishment having live music for the last 40 years with no complaints. • Would like to have seen the items voted on in three separate issues. <p>Mrs. Spector took her seat in the Council Chambers.</p>
11:26 PM	ITEM #12 COUNCIL MATTERS	<u>ITEM #12</u> Mr. Glickman <ul style="list-style-type: none"> • Re-raised an issue regarding leaf blowers, and asked for Council interest in agendizing the issue for future discussion • Interest was expressed by one additional Council Member to place the issue on a future agenda. <p>Motion by Mr. Wasserman to extend the meeting past 11:30 PM. Seconded by Mr. Pirzynski. Carried unanimously.</p> <ul style="list-style-type: none"> • Commented on the unique evening Friday night when the N. Santa Cruz Avenue was closed to traffic, but open to public access. • Suggested considering closing the street again sometime in the future.
11:37 PM	ITEM #13 MANAGER MATTERS	<u>ITEM #13</u> None.
11:38 PM	MEETING ADJOURNED	

Submitted by:

Jackie D. Rose, Deputy Clerk

Attest:

MarLyn J. Rasmussen, Clerk Administrator
Secretary to the Redevelopment Agency